

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

EILEEN C. LUBERDA,

Plaintiff,

v.

DEPARTMENT OF SOCIAL SERVICES

STATE OF MISSOURI,

Defendant.

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No. 4:05-CV-1821-CEJ

ORDER AND MEMORANDUM

This matter is before the Court upon the application of Eileen C. Luberda for leave to commence this action without payment of the required filing fee. *See* 28 U.S.C. § 1915(a). Upon consideration of the financial information provided with the completed application, the Court finds that the applicant is financially unable to pay any portion of the filing fee. Therefore, plaintiff will be granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a). Furthermore, for the reasons set forth below, the Court finds that the petition should be dismissed. 28 U.S.C. § 1915(e)(2)(B).

Plaintiff seeks to remove this cause of action from the Circuit Court of St. Louis County to the United States District Court for the Eastern District of Missouri. However, the removal procedure is expressly limited to a defendant or defendants. *See, e.g.,* 28 U.S.C. §§ 1441(a), 1442, 1442a, 1443, 1444 and 1446(a), (b). These provisions provide no right to plaintiff to remove her action from the state forum in which she chose to bring it. *See Chicago R.I. & P.R. Co. v. Stude*, 346 U.S. 574, 580 (1954) (holding that plaintiff may not remove pursuant to 28 U.S.C. § 1441(a)); *see also Conner v. Salzinger*, 457 F.2d 1241, 1243 (3d Cir. 1972) ("It is settled that the cited removal

statute confined the right of removal from a state court to a federal district court to *a defendant or defendants.*") (emphasis in the original) (citations omitted). The Court will, therefore, deny plaintiff's petition for removal.

In accordance with the foregoing,

IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis [Doc. 2] be **GRANTED**.

IT IS FURTHER ORDERED that plaintiff's petition to remove this action to this court from the Circuit Court of St. Louis County is **DENIED**, and the matter is remanded to the Circuit Court of St. Louis County pursuant to 28 U.S.C. § 1447(c).

An order of dismissal will accompany this Order and Memorandum.

Dated this 14th day of October, 2005.


UNITED STATES DISTRICT JUDGE